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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,854	06/27/2001	Rodrigo Garces	011727-92.00US	3678
20350	7590	07/15/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			GESESSE, TILAHUN	
			ART UNIT	PAPER NUMBER
			2684	

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/894,854

**Applicant(s)**

GARCES ET AL.

**Examiner**

Tilahun B. Gesessse

**Art Unit**

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/25/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 2-9 and 14-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alanara et al (US patent No. 6,067,460) in view of Laborde et al (US patent No. 5,857,154).

Regarding claim 1, Alanara teaches a wireless communication system having mobile subscriber units within a single wireless network (see figure 2) that may be in either static or mobile modes when operation (abstract) within the single network and a plurality of fixed network devices located at cell sites (cell 1 and 2).

Alanara teaches communicating with both static and mobile subscriber units within the single network (see column 7, line 9-column 12 line 56 and figure 3 and 4), a method for acquiring and managing a plurality of communication modes at each subscriber unit comprising:

Alanara discloses first sensing whether the subscriber unit is static or mobile from the nature and quality of the communication links with nearby network devices (see figure 4).

Art Unit: 2684

Alanara differs in teaching enabling an acquisition protocol suited to static mode and mobile mode for said subscriber unit. However, Laborde teaches enabling "multi-protocol" an acquisition protocol suited to static mode and mobile mode for said subscriber unit (see abstract). Since, Alanara indicates that provide a signaling protocol between base station and mobile station based on motion (see column 8, lines 1-12). Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to enable protocol suitable to stationary or moving subscriber unit, as evidenced by Laborde, in order to execute the communication using proper status of the subscriber with proper protocol suitable static or mobile state of the subscriber.

Claim 10, it is a system claim which corresponds to system claim 1 above. Therefore, it is analyzed and rejected for the same reason as set forth in the claim.

Regarding claim 11, Alanara teaches a wireless communication system having mobile subscriber units within a single wireless network (see figure 2) that may be in either static or mobile modes when operation (abstract) within the single network and a plurality of fixed network devices located at cell sites (cell 1 and 2).

Alanara teaches communicating with both static and mobile subscriber units within the single network (see column 7, line 9-column 12 line 56 and figure 3 and 4), a method for acquiring and managing a plurality of communication modes at each subscriber unit comprising:

Art Unit: 2684

Alanara discloses first sensing whether the subscriber unit is static or mobile from the nature and quality of the communication links with nearby network devices (see figure 4).

Alanara differs in teaching enabling an acquisition protocol suited to static mode and mobile mode for said subscriber unit. However, Laborde teaches enabling "multi-protocol" an acquisition protocol suited to static mode and mobile mode for said subscriber unit (see abstract). Since, Alanara indicates that provide a signaling protocol between base station and mobile station based on motion (see column 8, lines 1-12). Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to enable protocol suitable to stationary or moving subscriber unit, as evidenced by Laborde, in order to execute the communication using proper status of the subscriber with proper protocol suitable static or mobile state of the subscriber.

Regarding claim 12, it is a system claim which corresponds to system claim 1 above. Therefore, it is analyzed and rejected for the same reason as set forth in the claim.

Regarding claim 13, Alanara teaches the subscriber unit is sensed as static or mobile based on the nature and quality of the communication links with nearby networks devices (see figure 4 and measuring the signal strength of neighboring cells or scanning signal strength of cells ).

***Allowable Subject Matter***

3. Claims 2-9,14-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach initiating procedures to change acquisition mode from static mode to mobile mode upon failure of the subscriber unit to sense a pre-selected number of consecutive scheduled polling packets sent by a linked device.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 571-272-7879. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-2738300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Tilahun Geesse 6/30/05*

**TILAHUN GESESSE  
PRIMARY EXAMINER**